



# COUNTY OF YOLO

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County Administrator, **Patrick S. Blacklock**  
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June 24, 2011

### VIA E-MAIL ONLY

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Re: Comments of Yolo County—Fourth Draft of the Delta Plan

Dear Ms. Macaulay:

This letter provides the comments of the Yolo County Board of Supervisors on the June 13, 2011 “Fourth Staff Draft Delta Plan” (“Fourth Draft”). As with our previous letters, this letter is organized in the same manner as the Fourth Draft and uses headings that identify the specific policies and recommendations at issue.

Overall, the County recognizes that the Fourth Draft is a significant improvement on prior drafts. We recognize the tremendous progress that the Council has made during the course of this effort, particularly in light of the complexity of the issues set forth for consideration in the Delta Reform Act of 2009. The County also acknowledges the many changes throughout the Fourth Draft that address certain concerns previously expressed by the County.

Of the comments set forth in this letter, the following topics are of particular interest and concern to the County. Those topics are:

- **Economic Impacts and Mitigation.** The need to address the economic impact of the proposed restoration of a vast amount of habitat—particularly aquatic habitat that is incompatible with agricultural uses—within the Delta and Suisun Marsh. This is a difficult issue but also one that deserves significant attention, and the Delta Plan presents the Council an opportunity to take a leadership role along the specific lines suggested by the County in this comment letter.
- **Protecting and Enhancing the Delta as a Place.** This topic is covered primarily in Chapter 8 of the Fourth Draft, which is improved over prior versions. The County recognizes the importance of the Economic Sustainability Plan of the Delta Protection Commission and its anticipated contribution to the Delta Plan upon its completion. While the Economic Sustainability Plan will likely propose a diverse array of strategies to achieve its purposes, many of these strategies will require some amount of state funding for implementation. Legislative appropriations to the Delta Fund *before* the Plan

is complete—an issue on which the Council can be a strong advocate—will enhance its changes for success.

- **Local Government Impacts.** The Fourth Draft recognizes that payments in lieu of taxes can help compensate local governments for the loss of tax revenues as land is converted to state ownership in certain instances. The Council can assist local governments in preserving at least the existing level of public services by including a strong recommendation for legislative appropriations for such payments—which currently has not occurred in a decade—in the Delta Plan.
- **Local Land Use Authority.** Chapters 5, 7, and 8 of the Fourth Draft contain a handful of restrictions on local land use authority (including Table 7.1) that could, depending upon their interpretation, preclude even relatively minor projects. The ability to approve projects that sustain and revitalize existing communities and industries, particularly agriculture, is of vital importance to the County. Accordingly, as more specifically described below, these restrictions could each be drawn more narrowly to avoided unintended consequences while still achieving the expressed objectives of the Legislature.
- **Local HCP/NCCPs and Related Habitat Issues.** The County has previously expressed concern with the effect of habitat restoration projects and other elements of the Delta Plan on areas that currently provide significant value for terrestrial species, including migratory waterfowl, in the Delta. Local HCP/NCCP efforts are a vital path to reconciling these potential conflicts and the Delta Plan should clearly identify how they will be accommodated in a manner that does not compromise their successful implementation.

As noted, this letter includes specific suggestions intended to help the Council evaluate a potential response to these issues. The County will continue to consider additional suggestions and looks forward to future opportunities to present its proposals to the Council.

### **Comments on Chapter 1** **“The Delta Plan”**

Chapter 1 presents a good opportunity to recognize that local HCP/NCCPs can play an integral role in the implementation of the Delta Reform Act, including the coequal goals and the “inherent objectives.” Local NCP/NCCPs and other similar plans, such as the Yolo Bypass Wildlife Area Management Plan, promote many of the same objectives that the Legislature charged the Council with addressing in the Delta Reform Act. The Delta Plan must not create obstacles to their successful implementation by adding a new layer of regulatory review to related projects. More importantly, however, local HCP/NCCPs can be an important component of the Delta Plan and contribute to its success over time. The County recommends that the Council include specific text in Chapter 1 that is consistent with these views.

In addition, the importance of agriculture in the Delta—both for its contribution to regional economic vitality and its value as wildlife habitat—needs to be recognized more prominently in the Delta Plan.

This should begin in Chapter 1, which currently all but ignores agriculture in its overwhelmingly negative description of “Current Conditions” (pp. 10-12). This narrative should be substantially revised to reflect the positive aspects of Delta agriculture and its relationship with other existing attributes of the Delta (for example, the beneficial relationship between agriculture and migratory waterfowl habitat). Similarly, text describing habitat in the Delta throughout the Fourth Draft should highlight the habitat values of farmland and its importance to many endangered, threatened, and other terrestrial species.

**Comments on Chapter 2**  
**“Science and Adaptive Management for a Changing Delta”**

As the County has previously suggested, any significant adaptive management changes to projects that implement the Bay Delta Conservation Plan (BDCP) should be developed in consultation with affected counties and, if legally appropriate, be approved by the Council. The same goes for any other projects later undertaken as part of implementing “adaptive management” without a discretionary permit or approval by an affected county (i.e., state projects or other projects beyond the regulatory purview of counties). While adaptive management is clearly important in the context of ecosystem restoration and water management projects, it should include a process that allows full consideration of the interests and concerns of affected local governments, stakeholders, and citizens.

**Comments on Chapter 3**  
**“Governance: Implementation of the Delta Plan”**

**Covered Actions; Exemptions.** In general, the explanation of covered actions and the certification process in Chapter 3 is very clear and helpful. The County does, however, have the following comments and concerns.

As the Council is aware, the definition of “covered action” is the subject of much debate. The general parameters of the definition are very clearly defined in the Fourth Draft. How these parameters will be applied over time, however, is much less clear. The County observed the Council discussion of this matter during its June 23, 2011 meeting. That discussion, particularly the comments by legal advisors to the Council, clarified that the interpretation of “covered action” is expected to be rather narrow due in part to the “significant impact” language in Water Code Section 85057.5. The County appreciated this discussion and will use it to inform its application of the Delta Plan once it is effective.

Turning to the exemption for “ministerial” projects, based on the June 23, 2011 discussion, the County recognizes that this exemption will cover a large majority of “ministerial” approvals even if the underlying local ordinance has not been the subject of a consistency certification. Despite this, the County urges the Council to seriously consider exempting future ordinances covering the matters specifically listed on page 45 (i.e., building codes, business licenses, and final subdivision maps) without the need for a certification of consistency. Those matters are truly ministerial and local discretion is already circumscribed largely, if not entirely, by state law.

The County also strongly encourages the Council to carefully consider expanding the initial list of exemptions set forth at page 45 of the Fourth Draft to include all of the other statutory and categorical exemptions described in CEQA and the CEQA Guidelines. In making this suggestion, of course, the County acknowledges the language on p. 45 indicating that the Council will consider this after the Delta Plan is adopted. The County suggests, however, that the Council continue to consider additional

exemptions *before* finalizing the Delta Plan and, consequently, before many minor projects are potentially complicated by uncertainty about application of the Delta Plan. The County would be happy to meet with the Council's attorneys to pursue this request.

**Certifications of Consistency.** Policy G P1 indicates that “[a]ll covered actions must be fully transparent by disclosing all potentially significant adverse environmental impacts and mitigations of those adverse impacts.” This appears to essentially require compliance with CEQA—if something different is contemplated, that should be made clear. With regard to CEQA compliance, however, this policy appears to add nothing to existing law with the possible exception of making the Council into a body that will entertain administrative appeals of CEQA issues for covered actions. If this is intended, the County suggests the Council reconsider. Serving as an administrative appellate body on CEQA matters in the Delta, particularly where an appeal raises only issues of CEQA compliance, will result in a substantial workload and potentially diminish the Council's ability to address other issues.

The County is also encouraged to see a potential “short form” approach mentioned in the Fourth Draft (p. 45). The County looks forward to more detail about this approach in future drafts (the Fourth Draft does not appear to contain such detail despite the reference in the text).

**Incorporation of Other Plans and Projects.** The County is encouraged to see provisions regarding the potential for discretionary incorporation of other plans and projects into the Delta Plan. We assume that local HCP/NCCPs and other plans, such as the Yolo Bypass Wildlife Area Management Plan, will be able to seek incorporation into the Delta Plan through this process. We also assume that additional detail regarding this process is forthcoming in future drafts of the Delta Plan.

#### **Comments on Chapter 4** **“A More Reliable Water Supply for California”**

The County is continuing its evaluation of Chapter 4, but it appears that many of the concerns raised in our previous comment letters have been addressed.

#### **Comments on Chapter 5** **“Restore the Delta Ecosystem”**

In comment letters addressing Chapter 5 in the First, Second, and Third Drafts of the Delta Plan, the County has raised a number of points that apply with equal force to the Fourth Draft. These points generally arise from the same basic premise—that ecosystem restoration involves tradeoffs, and the Delta Plan must tackle those tradeoffs to properly address the Legislature's directive to achieve the co-equal goals “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” (Water Code § 85054.) Despite this, such discussion remains largely absent from the Delta Plan.

The Delta Plan process presents a logical opportunity to address the consequences of restoring large areas of aquatic habitat. Those consequences will likely include the displacement of many thousands of acres of farming operations and other existing uses, impacts to the regional economy, a loss or decline in the ecological value of large amounts of migratory waterfowl and other terrestrial species habitat, and potential effects on maintenance and enhancement of flood protection facilities. These are among the

most pressing issues for Yolo County and the other Delta counties that are slated to receive tens of thousands of acres of restored habitat.

The County urges the Council to address these issues as the Delta Plan continues to evolve. While some may be evaluated as part of the CEQA process for the Delta Plan, the resolution of these issues should also be considered at the policy level rather than simply relegated to the environmental review process. In part, as the County has previously suggested, affording a meaningful role to local HCP/NCCPs could help address conflicts with terrestrial species and their habitats. It can also be addressed by recognizing the habitat value of farmland, as the County has also suggested in its previous comments. Finally, strong Council support for economic mitigation, payments in lieu of taxes, and other means of addressing the local fiscal impacts of ecosystem restoration will all likely be integral to a equitable resolution of these concerns.<sup>1</sup>

In addition to these general issues, the County has the following specific comments:

**Policies ER P2 and P3.** These policies rely on an elevation map that apparently is not yet available for review, effectively treating habitat restoration as the preferred land use and requiring all other land uses that rise to the level of a “covered action” to demonstrate that conflicts with habitat restoration have been avoided or mitigated. The absence of the map makes it difficult to evaluate the implications of this policy. To the extent that the map is closely similar to the ERP Conservation Strategy on which it will apparently be based, the County is concerned that the map will not provide a sufficient amount of detail to enable affected jurisdictions to apply it to specific projects and parcels. In particular, any map to be applied in the manner contemplated by these policies must clearly show detail at the level of individual parcels before it can be properly applied by an affected jurisdiction.

On a more fundamental level, the County reiterates its prior objections to Policy ER P3 and its precursors in earlier drafts of the Delta Plan. The ERP Conservation Strategy that apparently forms the basis of this Policy describes a maximum level of habitat restoration in the Delta that is purely hypothetical and not intended for full implementation. The Conservation Strategy was also developed without regard to financial feasibility or potential impacts on agriculture, migratory birds, terrestrial species, or other issues fundamental to the “inherent objectives” and the Legislature’s directive to achieve the co-equal goals “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” (Water Code § 85054.)

In short, the Conservation Strategy is not a land use plan. The County thus urges the Council to avoid giving the Conservation Strategy a purpose that transcends the context in which it was created. To the extent Policy ER P3 remains, it should be modified to apply only where specific habitat restoration projects are proposed in a level of detail that is sufficient to enable an affected jurisdiction to properly analyze whether “adverse impacts” have been “avoided or substantially minimized.”

One possible approach is to require the application of Policy ER P3 only where a habitat project has been the subject (either by itself or as part of a more comprehensive plan or program of habitat

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<sup>1</sup> A recommendation for the Council to consider is as follows: “Prior to the implementation of the BDCP or a similar comprehensive program of habitat restoration in the Delta, DWR, the DPC and Delta Conservancy should develop a comprehensive report on the economic impacts of such projects. The report should also include recommendations regarding reasonable and appropriate compensation mechanisms and programs to administer those mechanisms in the most effective manner.”

restoration) of a Notice of Preparation or other CEQA document. A similar trigger that is tied to the definition of a habitat project in sufficient detail to allow for meaningful application of Policy ER P3 may also be appropriate. This approach would avoid the problem of requiring jurisdictions to analyze and mitigate impacts with habitat projects that are purely conceptual and which may not be implemented during the useful life of the project they are considering for approval (if ever).

**Policy ER R2.** Among other things, this recommendation urges “the prioritization and implementation of habitat restoration projects” in the Yolo Bypass. At the Council’s June 24, 2011 meeting, the Council converted this recommendation into a policy—effectively directing various state agencies to implement projects that have only been defined in a conceptual level of detail.

This is premature and inappropriate. The County has no objection to a Delta Plan policy that prioritizes a habitat planning process for the Yolo Bypass. In fact, it actively participates in various processes, including a new “working group” on the Yolo Bypass formed as part of the BDCP. But until such a process is complete and project(s) have undergone environmental review pursuant to CEQA and its federal analog, the National Environmental Policy Act (NEPA), it is not appropriate to direct state agencies to *implement* unspecified projects with unknown impacts.

Accordingly, the County instead recommends that the Council express a more moderate position. Such a position could, for example, support further study of potential restoration projects while also expressing Council support for careful consideration of the environmental impacts and other consequences (such as economic impacts) of their implementation. In the County’s view, this approach would align closely with the objective of achieving the co-equal goals “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”

#### **Comments on Chapter 6** **“Improve Water Quality to Protect Human Health and the Environment”**

The County has no comments on this chapter at the present time.

#### **Comments on Chapter 7** **“Reduce Risk to People, Property, and State Interests in the Delta”**

**Flood Risk, Defined.** At page 134, the Fourth Draft sets out a broad definition of “flood risk” that establishes “risk” as including economic considerations, such that an increase in the financial consequences of a flood constitutes an increase in “flood risk.” It is difficult to reconcile this approach with the language of Water Code Sections 85305, 85306, and 85307, which relate to “flood risk” in the context of the Delta Plan and related efforts and appear to support a more conventional—and limited—reading of this term that would exclude economic considerations. The County encourages the Council to review these statutory provisions and, if appropriate, revise related language in the Delta Plan that relies on an overbroad definition of “flood risk.”

**Policies RR P1 and P2.** These policies expand upon existing regulatory restrictions on development and encroachments within floodways and floodplains. The need for these policies is unclear—both state and federal law regulate (and tightly control) development in such locations. Moreover, the sentence stating “[l]and use policies guiding development in floodways are not consistent in Delta counties” is

unsupported by reference to any such inconsistencies, the relevance of which would be questionable in any event due to the existence of comprehensive state and federal regulatory schemes. These policies should therefore be supported by evidence that they are necessary or, in the absence thereof, the policies should be deleted.

If these policies remain in the Delta Plan, additional issues also warrant consideration. For instance, Policy RR P1 allows ecosystem restoration projects, ongoing agricultural activities, and flood management activities to adversely impact flood flows *without* providing mitigation. The County recognizes it may be difficult (or impossible) to require agricultural uses of a floodway to mitigate their impacts, as most agricultural uses do not require any sort of local, state, or federal permits that would afford a basis for imposing such mitigation.

The same is not true, however, for future ecosystem restoration and flood management activities. The County currently has a permitting system that requires such uses (and in fact, all activities that involve construction) to avoid or mitigate impacts on flood conveyance. There is no apparent reason (nor is any reason provided in the text) to exempt such activities from otherwise applicable mitigation requirements. Nearby residents and properties should not be required to effectively bear additional flood risk as a means of reducing the regulatory burden on those carrying out such activities. These exemptions should be deleted. If they nonetheless remain, the Council should also exempt agricultural economic development projects—critically needed in the Delta—from the mitigation requirement.

Policy RR P2 is also poorly conceived and could have various unintended consequences. This policy prohibits virtually all encroachments—excluding only those related to ecosystem restoration projects, agriculture, and flood management activities—in portions of the Yolo Bypass and other areas located within the legal Delta. This prohibition apparently applies *even if such encroachments have no adverse impact on flood conveyance*. In effect, this policy could therefore prohibit the repair or improvement of existing County roads, natural gas wells, utility transmission and distribution lines, and other (generally minor) infrastructure located in the Yolo Bypass. Such a prohibition could adversely affect farming operations, recreational uses, and a wide range of other common activities in the Delta if they somehow rise to the level of a “covered action.” The County urges a revised version of this Policy that expressly exempts such activities—at least in all but extraordinary circumstances.

**Recommendation RR R2.** The County is encouraged to see the Council’s support for maintaining the navigability of the Sacramento River Deep Water Ship Channel and other similar facilities in the Delta.

**Policy RR P3.** By reference to Table 7-1, this policy appears to prohibit most new subdivisions in the Delta by restricting them to areas with levels of flood protection (e.g., PL84-99 and higher) that do not currently exist. The table also appears to prohibit even agriculture in areas (and there are likely many in the Delta) that lack Class 2 levees, allowing only habitat uses. These restrictions are far beyond the limited legal authority of the Council and the County requests several changes to Policy RR P3 and Table 7-1 (the following comments refer to the revised version circulated at the Council meetings on June 23 and 24, 2011).

First, the term “above-ground infrastructure” needs to be given further consideration. It appears that this term encompasses levees, roads, and other “above-ground” public infrastructure commonly found throughout the Delta that rises to the level of a “covered action.” This should be addressed in a manner that avoids imposing restrictions on such infrastructure except in the unusual circumstance where there

is a demonstrable need for such protection. For instance, requiring PL84-99 or greater levels of levee protection as a condition precedent for a public road project that constitutes a “covered action” (a circumstance, the County recognizes, that would be unusual) is utterly unnecessary and, we hope, unintended.

Second, Table 7.1 should exempt development within the Legacy Towns—particularly those with established urban limit lines, like Clarksburg—should be exempted for the same reason that development with cities and city spheres is exempted. There is no potential for significant internal development of the Legacy Towns in any event. As the Council is aware, the Land Use and Resource Management Plan of the Delta Protection Commission already establishes strict restrictions on new development within the Primary Zone.

Third and finally, the County has essentially the same comments regarding the apparent restriction of “development”—defined, it seems, as including even a building permit for a home or other structure on a single existing parcel that rises to the level of a “covered action.”<sup>2</sup> The Legislature did not require 100-year flood protection in its 2007 legislation covering such development. More importantly, the Delta Reform Act does not contain any hint that the Legislature intended (or authorized) the Council to revisit this issue in drafting the Delta Plan (it is, of course, already covered in the Land Use and Resource Management Plan. The County urges the Council to eliminate these restrictions and leave this subject for continued coverage in the Land Use and Resource Management Plan.

**Recommendation RR R4.** In general, the County concurs with the strategy described in this recommendation for improving emergency preparedness in the Delta. It recommends that the Council consider adding a sixth bullet point that would read: “The Legislature should prioritize funding for implementation of the Delta Multi-Hazard Task Force recommendations.”

**Recommendation RR R5.** This recommendation expresses support for legislation that would provide immunity for government “public safety flood protection activities.” The meaning of the quoted language is vague. If the intent is to support immunity from claims that arise in connection with flood fighting and other active emergency response measures during an actual or threatened flood event, the County supports this recommendation.

If it extends, however, to claims arising from the failure to properly maintain, repair, and rehabilitate flood protection facilities included within the State Plan of Flood Control, the County opposes the recommendation. The County has previously expressed serious objections to similar recommendations in earlier draft versions of the Delta Plan. The state has long held legal responsibility for the operation and maintenance of an extensive flood protection system that protects millions of residents and many billions of dollars in property and improvements. The consequences of relieving the state from liability for any failure of its system—if that is what this recommendation contemplates—could potentially include a lower level of state investment in repairs and other work that is believed to be critically necessary to sustain system integrity. Obviously, this would increase flood risks in the Delta. Recommendation RR R5 is thus directly counter to Water Code Section 85305, which requires the Delta

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<sup>2</sup> This element of Table 7.1 appeared for the first time in the revised draft circulated at the Council’s June 23 and 24 meetings. It was not closely reviewed by the County prior to the comments presented by a County representative at the June 24 meeting.

Plan to “attempt to reduce risks to people, property, and state interests in the Delta.” It should thus be deleted.

**Recommendation RR R6.** This recommendation proposes legislative action to require all residents, businesses, and industries in “flood-prone areas” to obtain flood insurance. As the Council is aware, flood insurance is already required to some extent by local implementation of the National Flood Insurance Program and related regulations promulgated by the Federal Emergency Management Agency. New legislation expanding flood insurance requirements may be appropriate to consider. However, the availability of *affordable* flood insurance would have to be assured as part of such legislation (possibly through the creation of a state insurance pool). Also, the meaning of “flood-prone” should be clarified so that the implications of this policy can be properly evaluated.

**Recommendation RR R7.** This recommendation proposes the creation of a “Delta Flood Risk Management Assessment District” with various duties that are briefly identified in the text. The County supports further development of this proposal, which is currently conceptual in nature. A careful review of its potential implications, including the concerns recently expressed by Contra Costa County on this subject, is also necessary. The County will give serious consideration to this proposal as it develops over time.

**Comments on Chapter 8**  
**“Protect and Enhance the Unique Cultural, Recreational,  
Natural Resources, and Agricultural Values of the Delta as a Place”**

This chapter is improved and the County generally supports the recommendations described therein. Nonetheless, the County is concerned that Chapter 8 still lacks policies or recommendations that significantly advance the objectives expressed in its title. More troubling to the County, it also contains language perpetuating the mythology that the Delta can accommodate vastly expanded areas of habitat (particularly aquatic habitat types) without a decline in agricultural acreage or its regional economy. The County urges the Council to revisit Chapter 8 in its entirety with the goal of crafting a more accurate description of the problems that confront the Delta as it seeks to protect its “unique cultural, recreational, natural resources, and agricultural values.” The difficulty of protecting (let alone enhancing) these values is very real and immediate, and the Delta Plan can do much more to identify the problems and potential solutions to these matters.

In terms of potential solutions to the problems that ought to be identified more fully in the Delta Plan, the County has previously suggested a number of measures for consideration in different forums. These include:

- Developing a comprehensive economic mitigation program that will fully address the direct and indirect economic impacts of habitat, water conveyance, and related projects contemplated in the BDCP and the Delta Plan;
- Integrating or otherwise accommodating the implementation (and completion, where applicable) of local HCP/NCCPs and similar plans intended to preserve, expand, and restore habitat for native terrestrial species and migratory waterfowl; and

- Requiring a payment in lieu of taxes program for lands acquired by state and local agencies that includes a guaranteed funding source outside of the state budget.

The County encourages the Council to add new recommendations in the Delta Plan on these points, or, in the case of payments in lieu of taxes, strengthening the existing language in Recommendation DP R3. It also encourages the Council to strengthen the language of Recommendation DP R2, which currently says only that “[t]he Legislature should consider appropriate funding for implementation of the Economic Sustainability Plan consistent with the Delta Plan.”<sup>3</sup>

Clear and strong direction from the Council on these matters in the Delta Plan could help energize efforts in other forums—including the BDCP planning process and the Legislature—to craft meaningful solutions to these difficult issues. Conversely, a weak Council position will only help continue the existing trend of deferring efforts to address these problems to some uncertain point in the future.

Payments in lieu of taxes are a case in point. The Fourth Draft states that “budget constraints may affect payments on an annual basis.” The reality is far more serious. The state has not made any payments in lieu of taxes to affected counties for about a decade, resulting in a debt to counties that runs into the tens of millions of dollars (Yolo County alone is now owed over \$1 million). Starting with the Delta Plan, Council leadership on this issue and related fiscal issues is greatly needed.

The County’s specific comments on the text of Chapter 8 reflect these general points and recommendations. Those comments are as follows.

**Economic Sustainability.** The problem statement in the Economic Sustainability discussion posits that “Delta economic drivers are changing.” (Fourth Draft, p. 157.) This is misleading to the extent it can be understood to imply that the regional economic contribution of agriculture—long the leading economic driver of the Delta economy—is being supplanted by recreation, tourism, and other uses. Perhaps particularly in Yolo County, agriculture continues to be of vital economic importance and recreation, tourism, and other uses continue to make only a small contribution to the local economy. The County strives to increase such uses and related revenues, but the importance of sustaining a strong agricultural economy remains paramount.

In addition, the County observes that the “policies” discussion in this part of Chapter 8 states that “[t]he Delta Plan will rely heavily on local and regional direction to achieve the recommendations cited below[.]” (Fourth Draft, p. 157.) Yet with the exception of Recommendation DP R1, concerning the Economic Sustainability Plan of the DPC, the recommendations rely on action by the Legislature rather than affected local and regional governments and stakeholders. This text should thus be revised to reflect the nature of Recommendations DP R2 and R3 [FP R10 and 11 in the table released at the June 23 Council meeting). And of course, as explained above, the County strongly believes the Council can take a much more aggressive approach in these recommendations and directly request legislative action.

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<sup>3</sup> In addition to state funding, the Council could potentially use any legislative authority it receives to impose user/stressor fees (discussed at p. 173) to augment the Delta Investment Fund or similar mechanisms that support regional economic sustainability. The County encourages the Council to consider this as it revises the Fourth Draft (either in Chapter 8 or 9, or both).

The County also suggests that Recommendation DP R1 be revised to include language reflecting the importance of local government and private entity investments in matters bearing on the economic sustainability of the Delta. A possible approach is to revise the first sentence of the recommendation to read: “The Economic Sustainability Plan should include, but not be limited to, planning for the following items with due consideration for the potential roles of private entities and local, state, and federal government agencies.” This language (or something similar) should allow for a more direct emphasis on the respective roles and resources of the public and private sectors in the economic sustainability of the Delta.

Finally, in its comments on the Third Draft, the County suggested Council consideration of two additional policies intended to promote the economic sustainability of the Delta. These policies read as follows:

- Promote sustainable development within the existing, designated growth boundaries of legacy communities consistent with the Economic Sustainability Plan by allowing for infrastructure improvements and mixed uses, including farm worker housing and agriculture/tourism related businesses.
- Support local Agricultural District programs that enhance the distinctive farming and recreational character of unique areas within the Delta by encouraging agricultural business development and expansion, including food processing, farm sales and agricultural tourism, through the use of programs such as targeted regulatory streamlining, financial incentives, and specialized marketing efforts.

**Land Use and Resource Management.** In general, the County generally takes no issue with this section of Chapter 8. It does, however believe that certain statements create a misleading impression that urbanization of the Delta is rampant (it is not, and particularly not within Yolo County), and that additional urbanization is inconsistent with preserving the fundamental agricultural, natural resource, and other values of the Delta.<sup>4</sup> These statements should be tempered in subsequent drafts to ensure an accurate reflection of the setting of the Delta Plan.

**Natural, Agricultural, and Cultural Heritage.** The County supports the “gateway community” approach and, as previously expressed, would like Clarksburg to serve as such a community. We note that all of the “recommended” gateway communities listed in the Fourth Draft are in other counties, though our request with respect to Clarksburg is mentioned. The need for a gateway community in Yolo County is clear if this County is to share in the potential benefits of this approach. Clarksburg is ideally suited to serve as a gateway for visitors seeking agricultural tourism, ecotourism, and recreational opportunities. The County therefore reiterates its request with respect to Clarksburg.

The gateway community approach highlights the need for the Delta Plan to accommodate limited development of related infrastructure. As expressed in the County’s prior comments, it is unclear

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<sup>4</sup> For example, the text states “development in deep floodplains and below seal level, which is hazardous for new residents and existing communities, has not been adequately constrained.” This is a generalization that applies only to limited areas of the Delta (and, we believe, not at all within Yolo County). This statement should be revised to reflect its limited application. In addition, the statement that “[i]ncreasing urbanization of the Delta is fundamentally consistent with” agriculture, habitat, and recreation uses of the Delta. This is true to a point, but some limited urban development and redevelopment will continue to be necessary to sustain and revitalize existing communities, industry, and agriculture.

whether other text in the Delta Plan reflects this need. The County urges the Council to consider this potential inconsistency—and of course, the need for limited development and redevelopment that proceeds in a manner that balances other considerations—in the course of finalizing the Delta Plan. Put simply, significantly increasing agricultural tourism, ecotourism, and recreational opportunities will require the development of adequate support infrastructure.

**Performance Measures.** The “outcome performance measures” in Chapter 8 deserve much more careful consideration. For example, the measures all support sustaining or increasing revenues from agricultural, recreational, and tourism activities, but this could be difficult to measure in an accurate manner and no baseline figures are included in the Fourth Draft. The use of an index that tracks inflation and other relevant factors is necessary to give these measures proper effect. Given the need for (and anticipated fiscal, climate change, and other benefits of) additional agricultural processing and related facilities in the Delta, the County also suggests a performance measure that calls for a significant increase in regional agricultural processing capacity.

In addition, the performance measure that calls for maintaining “trends in acreage of annual crops, orchards, rice, and vineyards” is somewhat at odds with the fact that tens of thousands of acres of Delta farmland will be displaced by habitat and water supply projects. This highlights the fundamental flaw in the Delta Plan that the County has repeatedly expressed—the need to identify, study, and reconcile the potential consequences of the projects contemplated in the Delta Plan, BDCP, and other efforts with the objectives of the Delta Reform Act. The fact that this performance measure appears in the Fourth Draft is a clear indication that these issues, all of which are of vital importance to Yolo County, have yet to even be acknowledged.

### **Comments on Chapter 9** **“Finance Plan Framework to Support Coequal Goals”**

The County does not presently have any specific comments on Chapter 9. However, many of the issues and suggestions raised in the County’s comments on earlier chapters could be relevant to future iterations of Chapter 9. For example, the County’s request for the Council to support economic mitigation and payments in lieu of taxes should, if embraced by the Council, be reflected in Chapter 9. The County encourages the Council to consider these matters in future versions of Chapter 9.

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The Yolo County Board of Supervisors appreciates the opportunity to provide comments on the Second Draft of the Delta Plan. We look forward to continued involvement in the planning and environmental review processes.

Sincerely,

A handwritten signature in black ink that reads "Matt Rexroad". The signature is written in a cursive, slightly slanted style.

Matt Rexroad, Chair  
Yolo County Board of Supervisors